

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

NEAL FLOWERS, )  
                    )  
                    )  
Plaintiff,       )  
                    )  
                    )  
vs.               )                  No. CIV-16-30-C  
                    )  
                    )  
UNDERSHERIFF JIM MULLET,     )  
et al.,            )  
                    )  
                    )  
Defendants.      )

**ORDER ADOPTING REPORT AND RECOMMENDATION**

This matter is before the Court on the Report and Recommendation entered by United States Magistrate Judge Gary M. Purcell on June 27, 2016. The court file reflects that no party has objected to the Report and Recommendation within the time limits prescribed. Therefore, the Court adopts the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and the Court rules as follows:

1. Defendants Rhodes' and White's Motions to Dismiss Plaintiff's claim of a First Amendment violation are GRANTED and this claim against Defendants Rhodes and White is dismissed without prejudice under Rule 12(b)(6) for failure to state a claim upon which relief may be granted;
2. Defendants Rhodes', White's, and Mullet's Motions to Dismiss Plaintiff's claim of unconstitutional retaliation are GRANTED and this claim against Defendants Rhodes, White, and Mullet is dismissed without prejudice under Rule 12(b)(6) for failure to state a claim upon which relief may be granted;

3. Defendant Mullet's Motion to Dismiss, construed as a motion for summary judgment, is GRANTED as to Plaintiff's claim of a First Amendment violation and judgment will be entered in favor of Defendant Mullet and against the Plaintiff on this claim;

4. Defendants Rhodes', White's, and Mullet's Motions to Dismiss, construed as motions for summary judgment, are GRANTED as to Plaintiff's claim of deliberate indifference to his medical needs and judgment will be entered in favor of Defendants Rhodes, White, and Mullet and against the Plaintiff on this claim; and

5. Defendants Rhodes', White's, and Mullet's Motions to Dismiss are GRANTED as to Plaintiff's claims against Defendants in their official capacities and those claims are dismissed without prejudice under Rule 12(b)(6) for failure to state a claim upon which relief may be granted.

IT IS SO ORDERED this 21st day of July, 2016.



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ROBIN J. CAUTHRON  
United States District Judge